

Income/Franchise:

Georgia DOR Adopts Regulations Implementing New Elective Pass-through Entity-Level Taxation

Adopted Reg. section 560-7-3-.03 (Election to Pay Tax at the Pass-Through Entity Level); Adopted Reg. section 560-7-3-.06 (Taxation of Corporations); Adopted Reg. section 560-7-3-.08 (Partnerships); and Adopted Reg. section 560-7-5-.02 (Accounting Periods and Basis of Net Income), Ga. Dept. of Rev. (12/21). Pursuant to recently enacted legislation that provides an annual irrevocable election for S corporations and partnerships to pay tax at the entity-level [see H.B. 149 (2021), and previously issued Multistate Tax Alert for more details on this new law], the Georgia Department of Revenue has adopted regulations concerning administration and implementation of this election, which is available for tax years beginning on or after January 1, 2022. The revisions include pertinent definitions, as well as provide which entities are eligible to make the election; how to make the election; how to compute the income and the tax; how an owner subtracts the income that was taxed at the pass-through entity level; and rules regarding tax attributes. The regulations also contain rules regarding underlying estimated payments, audits, investment pass-through entities and exempt owners, and withholding. Please contact us with any questions.

URL: <https://dor.georgia.gov/rule-560-7-3-03-election-pay-tax-pass-through-entity-level>

URL: <https://dor.georgia.gov/rule-560-7-3-06-taxation-corporations>

URL: <https://dor.georgia.gov/rule-560-7-3-08-partnerships>

URL: <https://dor.georgia.gov/rule-560-7-5-02-accounting-periods-and-basis-net-income>

URL: <https://www.legis.ga.gov/legislation/59024>

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-georgia-enacts-a-pass-through-entity-level-tax.pdf>

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